

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: AmSouth Bank)
Dist. 9, Map 99AA, Group B, Control Map 99AD,) Maury County
Parcel 1.00)
Commercial Property)
Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$179,200	\$2,127,100	\$2,306,100	\$922,440

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 10, 2006 in Columbia, Tennessee. In attendance at the hearing were registered agent Michael John, Robbie Chandler and Maury County Deputy Assessor Bobby Daniels.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of the local main branch of AmSouth Bank situated at 700 N. Garden Street in Columbia, Tennessee. Subject building contains three floors with a total of 17,207 square feet.

The taxpayer contended that subject property should be valued at \$960,000. In support of this position, the cost and sales comparison approaches were introduced into evidence. Mr. John maintained that subject property suffers a significant loss in value due to external obsolescence. In particular, Mr. John asserted that local main branches are no longer needed because technological advancements have allowed banking operations to be centralized. Mr. John argued that because local main branches now serve the same function as traditional branches, only 3,000 to 5,000 square feet is normally necessary. Thus, Mr. John contended that subject property has a significant amount of unnecessary space including the entire second and third floors.

The assessor contended that subject property should be valued at \$2,306,100. In support of this position, the cost approach was introduced into evidence. In addition, Mr. Daniels took exception to Mr. John's assertion that local main branches are all obsolete. Mr. Daniels introduced photographs showing that local main branch banks of similar size are currently being constructed or have recently been constructed in Columbia.

Mr. Daniels also testified that the third floor of subject building has been used by a law firm and has its own entrance. Mr. Daniels further noted that the property owner has not actively marketed the unused space on the second and third floors.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$2,306,100 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Maury County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds Mr. John essentially asserted that all local main branch banks are obsolete because operations historically done locally are now performed centrally. The administrative judge finds that this assertion must be rejected absent additional proof for at least two reasons. First, nothing in the record indicates Mr. John qualifies as an expert with respect to the banking industry. Second, Mr. Daniels' introduced evidence to establish that local main branch banks of similar size are currently being constructed or have recently been constructed in Columbia. Thus, the administrative judge finds that what could possibly be true in other markets or for certain banks does not reflect the local market.

The administrative judge finds that Mr. John's sales cannot provide a basis of valuation absent additional proof. The administrative judge finds that no evidence was introduced concerning the marketing of the three properties. The administrative judge finds that the seller in each case was First State Investors 4300, LLC ["First State"]. According to Mr. John, First State purchased these banks as part of a bulk purchase. The various banks it purchased were subsequently sold to third parties or leased back to the original sellers. Absent additional evidence, the administrative judge finds it reasonable to assume that the sales prices are certainly indicative of investment value. However, investment value and market value are not synonymous and the latter constitutes the basis of valuation for ad valorem tax purposes.

The administrative judge finds that Mr. John's sales must also be rejected because of unreliable adjustments. The administrative judge finds that *all* of the adjustments were subjective rather than market derived. Moreover, the administrative judge finds that no

adjustment was made to account for locational differences. In addition, two of the three comparables required significant adjusting even without considering location. For example, the McMinnville sale was adjusted 67%.¹ Similarly, the Cookeville sale had gross adjustments of 53% and net adjustments of 43%.

The administrative judge finds that Mr. John's cost approach lacks probative value. The administrative judge finds that Mr. John's 60% deduction for external obsolescence was arbitrary and results in a seemingly excessive 81% accrued depreciation. The administrative judge finds that recognized procedures exist for quantifying external obsolescence. See generally, Appraisal Institute, *The Appraisal of Real Estate* at 412-14 (12th ed. 2001).

Given the foregoing, the administrative judge finds that the current appraisal of subject property must be affirmed based upon the presumption of correctness attaching to the decision of the Maury County Board of Equalization.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$179,200	\$2,127,100	\$2,306,100	\$922,440

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which

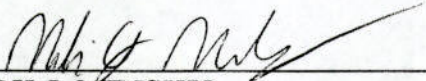
¹ The 72% indicated on the spreadsheet appears incorrect given the stated adjustments of 15%, 12% and 40% for condition, age and size respectively.

relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 25th day of October, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Michael W. John
Jimmy R. Dooley, Assessor of Property